



# FREDERICK COUNTY PLANNING COMMISSION

November 12, 2014

**TITLE:**

**Burger King/Philly Pretzel –  
Urbana Village Center (Lot 1)**

**FILE NUMBER:**

**SP-93-03, AP #14662, FRO #14664,  
APFO #14663**

**REQUEST:**

**Site Development Plan Approval**

The Applicant is requesting Site Development Plan approval for a fast food restaurant with drive-through service (Burger King/Philly Pretzel) on a single 0.879-acre site.

**PROJECT INFORMATION:**

**ADDRESS/LOCATION:**

North side of Urbana Pike, east of its intersection with  
Fingerboard Road (MD80) on the site of the former Peter Pan  
Inn/Cracked Claw Restaurant in Urbana

**TAX MAP/PARCEL:**

Tax Map 96, Parcel 59

**COMP. PLAN:**

General Commercial (GC)

**ZONING:**

General Commercial (GC)

**PLANNING REGION:**

Urbana

**WATER/SEWER:**

W-1/S-1

**APPLICANT/REPRESENTATIVES:**

**APPLICANT:**

Potomac Foods Real Estate, LLC

**OWNER:**

Urbana Lot 1, LLC & Dixon House LLC

**ENGINEER/PLANNER:**

Hoggard-Eure Associates, P.C. (Portsmouth, VA)

**STAFF:**

Denis Superczynski

**RECOMMENDATION:** Conditional Approval

**ATTACHMENTS:**

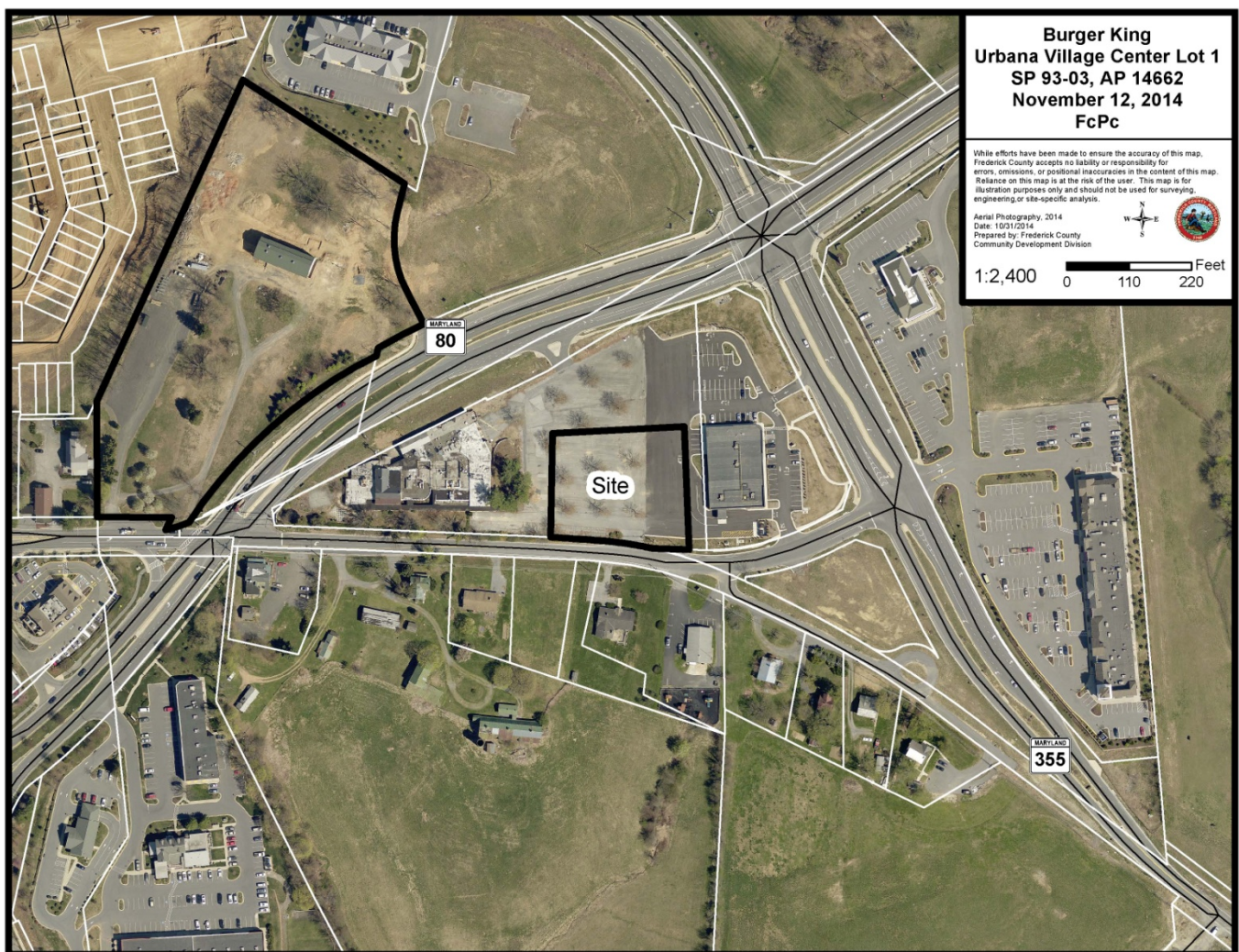
Exhibit 1 - Site Plan Rendering

Exhibit 2 – Loading Space Modification Request

## ISSUE

### Development Request

The Applicant is requesting Site Development Plan approval for a 3,328 s.f fast food restaurant (Burger King/Philly Pretzel) to be constructed within a single structure on a 0.879-acre portion of the former Peter Pan Inn/Cracked Claw Restaurant 4.14 acre site in Urbana. The proposed use is being reviewed as a "Restaurant" under the heading of *Commercial Business and Personal Services*, per Section 1-19-5.310 (Use Table) in the Zoning Ordinance. The proposed use is a principal permitted use in the General Commercial Zoning District subject to site development plan approval. The proposed building is located within a Planned Commercial Development – Urbana Village Center Lot 1 – that was previously approved by the Planning Commission (Site Development Plan SP-93-03, AP 13641) and will face onto Urbana Pike. Vehicular and pedestrian access to the proposed restaurant will utilize an internal network approved under the December 2013 Planned Commercial site plan.





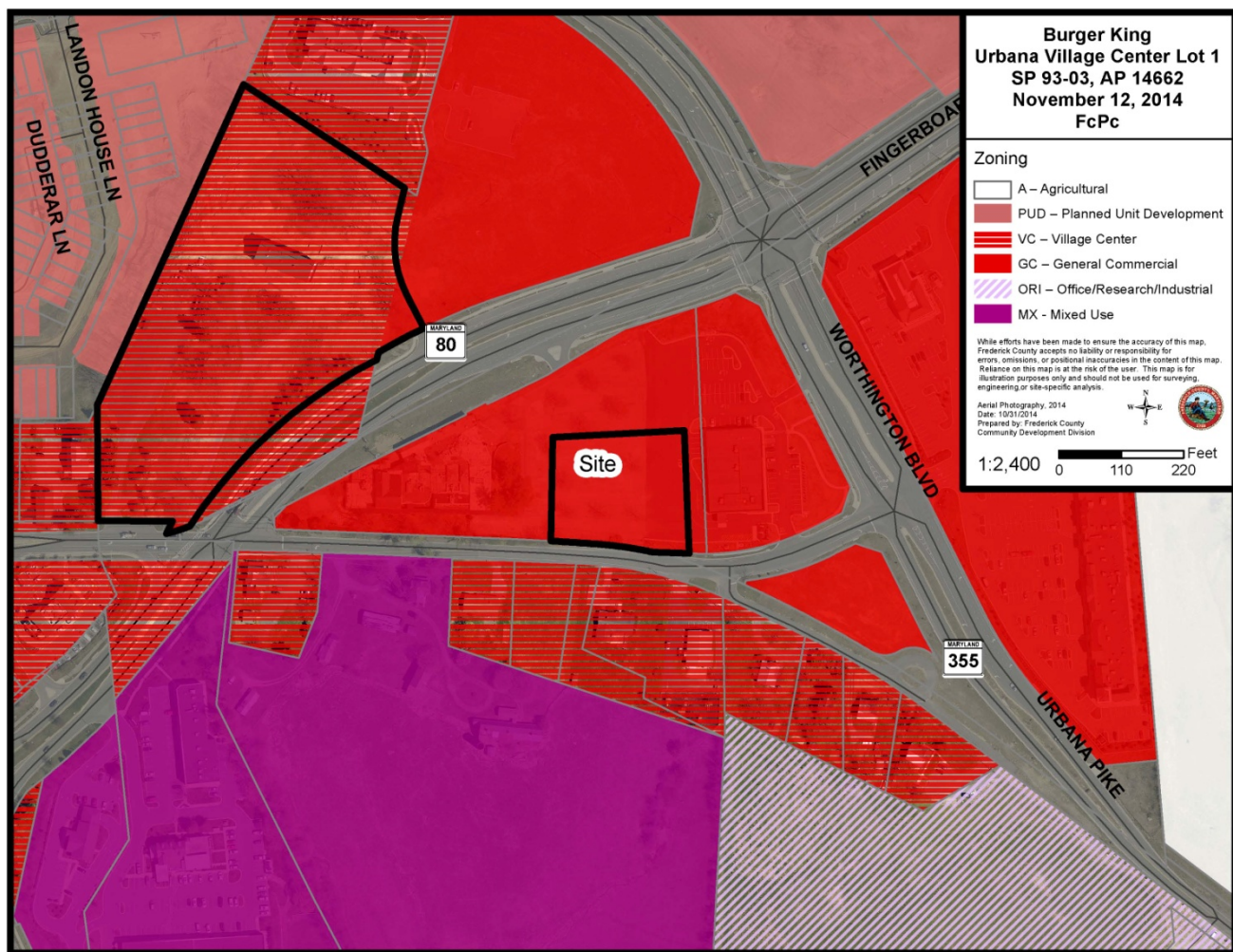
## BACKGROUND

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At this time, demolition of the majority of the existing structures on the site is underway and construction of the two adjacent approved new structures (Dash-In convenience store and Advance Auto Parts) has begun.

### Existing Site Characteristics

Surrounding land uses present a mix of old and new Urbana. Directly across MD 80 from Parcel 59 is the Landon House, a pre-Civil War structure that is currently undergoing extensive renovations and is being adapted for use as offices, a restaurant and events facility. Neighboring land uses on the northeastern edge of the Planned Commercial site, on the northern side of MD 80, will likely include a mix of retail and neighborhood convenience uses. East of Lots 1 and 2, across Worthington Boulevard, are commercial retail uses developed in recent years after the construction of the southern leg of Worthington Boulevard. Immediately adjacent to the east of the proposed Burger King site is a CVS Pharmacy. The land south of the subject parcel is currently occupied by a handful of single family homes as well as the collection of structures listed on the Maryland Inventory of Historic Places and known as the Dixon-Dudderer Houses (MIHP #F-7-131). The older, late 19<sup>th</sup> century house located across Urbana Pike to the south of the subject property is known as the Dixon House, having been built by Lucy Dixon for her grandson Samuel. Mrs. Dixon ran the Inn that later became the Peter Pan Inn on the subject parcel. The Dixon-Dudderer site was approved in August 2013 for a 352-dwelling unit, mixed use (residential and commercial) project called Urban Green (#SP-12-11). Demolition permits for the structures on the Urban Green site were issued this past summer.



## **ANALYSIS**

### **Summary of Development Standards, Findings, and Conclusions**

The site of this proposed fast food restaurant is located in the General Commercial, GC zoning district and must comply with the general Site Plan Review criteria (Section 1-19-3.300.4).

Key issues related to the proposed Site Plan include:

- Building orientation, massing, architecture, and general site design
- Adequacy of proposed site integration into larger approved Planned Commercial plan
- Maximizing the efficiency and clarity of the internal circulation on the site
- Providing adequate vegetative screening and street tree plantings
- Allowing for signage compliance in the context of allowances granted under the Planned Commercial approval
- Modification to permit alternative loading space placement

Staff worked with the Applicant to find the most effective solutions to the challenges of developing the last of a series of commercial pad sites on a constrained site. Internal site circulation for vehicles and pedestrians was the most difficult aspect of the development proposal given that the other 'pieces of the puzzle' were already set in place. The Applicant has presented a functional plan for development of the site that, while not perfect, will allow for cars, delivery trucks, pass-through traffic, and pedestrians to move safely - and with some measure of directional clarity – through the site.

The establishment of a building entrance facing Urbana Pike and the utilization of a more constrained architectural design for the fast food structure both serve to benefit the overall design of the Planned Commercial project as well as the emerging redevelopment of the Urbana Pike corridor east of its intersection with Fingerboard Road.

### **Detailed Analysis of Findings and Conclusions**

Site Development Plan Approval shall be based upon the criteria found in Section 1-19-3.300.4 Site Plan Review Approval Criteria of the Frederick County Zoning Ordinance.

***Site Development, Section 1-19-3.300.4 (A): Existing and anticipated surrounding land uses have been adequately considered in the design of the development and negative impacts have been minimized through such means as building placement or scale, landscaping, or screening, and an evaluation of lighting.***

### **Findings/Conclusions**

1. **Dimensional Requirements/Bulk Standards, Section 1-19-6.100:** In the case of Planned Commercial/Industrial Development proposals, setback requirements, lot dimension requirements, and maximum height limitations for the proposed uses are contained in Section 1-19-10.300(C)3 (Planned Commercial/Industrial Development-Bulk Regulations). Dimensional standards are to be determined by the Planning Commission using the underlying zoning as a basis. In the GC District, the required front yard for commercial uses is 25 feet; side yard is 8 feet; and, rear yard is 25 feet. These standards are generally satisfied in this Site Plan. The building planned for the site is illustrated at a proposed maximum height of 20 feet and will not exceed the maximum height standard of 60 feet in the GC district.

Minimum Front yard setback (GC):	25 ft
Proposed Front yard building location:	<b>60 ft</b> (Urbana Pike)
Minimum Side yard setback (GC):	8 ft
Proposed Side yard building location:	<b>132 ft</b> (minimum)
Minimum Rear yard setback (GC):	25 ft
Proposed Rear yard building location:	<b>176 ft</b> (Fingerboard Road)
Maximum Building Height (GC):	60 ft.
Proposed Building Height:	<b>20 ft.</b>

2. **Signage, Section 1-19-6.300:** Signage proposed must comply with Zoning Ordinance Sections 1-19-6.300 through 1-19-6.340 and, more specifically, with the signage allotment for the Planned Commercial project approved in December 2013. Both a maximum and a minimum signage area for each use within the overall site was approved by the Planning Commission to insure that no single use maintained an overwhelming sign area advantage and that the last use to receive its final approvals would not be left without a sufficient amount of signage area with which to work. The proposed signage plan identifies and distributes site signage based upon the following previously approved calculation:

Fast Food Site Area (Burger King/Philly Pretzel)

Maximum Signage Area Permitted *:	<b>209.76</b>	<b>sq. ft.</b>
Minimum Signage Area Allotment:	<b>104.88</b>	<b>sq. ft.</b>

\* Calculated @ 20 x Square Root of the Total Building Frontage.

Additional identification sign area is allotted to each user of the Planned Commercial Development and may be installed as an integral part of the monument sign being constructed at the Fingerboard Road entrance to the development.

All relevant plans and permit applications submitted after approval of this Site Plan, if granted, shall clearly indicate how the signage plan meets the above requirement.

3. **Landscaping, Section 1-19-6.400:** The Applicant has submitted a landscape plan in accordance with Zoning Ordinance Section 1-19-6.400. Landscaped screening of parking areas is generally sufficient as shown. However, Section 1-19-6.400(C) requires that the plantings be capable of providing a minimum 30-inch high vegetative screen at the time of planting. The planting schedule (Landscape Notes and Details) provided on Sheet 12 indicates that the minimum plant size may not meet this initial requirement. Otherwise, the vegetative screening of parking areas, as well as the drive-through aisle, is adequately screened from view from the public streets (Urbana Pike and Fingerboard Road).

Street tree plantings required by the Zoning Ordinance were approved as part of the Planned Commercial Development site plan and are sufficient as proposed and approved.



Section 1-19-6.400(D) of the Zoning Ordinance requires that tree canopy providing shade to parking areas cover no less than 20% of that surface. The Applicant meets this standard with a proposed canopy cover of 37%.

4. **Lighting, Section 1-19-6.500:** The Applicant has provided a lighting plan in accordance with Zoning Ordinance Section 1-19-6.500. A combination of thirteen (13) building-mounted and pole-mounted lamps are provided on site as shown on the lighting plan. The plan meets the standards in the Zoning Ordinance for the height of the lights (proposed 17 ft. maximum for pole-mounted and 11 ft. maximum for building-mounted fixtures) and the illumination levels (no greater than 0.5 fc) at all property boundaries. Maximum height of lighting fixtures for commercial uses is 18 feet.

**Conditions:** The Applicant shall amend the Landscape Schedule to indicate a minimum planting height of 30" for all shrubs serving as vegetative screening of parking areas. The proposed height of all pole-mounted and building-mounted lights shall be more clearly noted on the lighting plan (Sheet 13).

**Transportation and Parking, Section 1-19-3.300.4 (B):** *The transportation system and parking areas are adequate to serve the proposed use in addition to existing uses by providing safe and efficient circulation, and design consideration that maximizes connections with surrounding land uses and accommodates public transit facilities. Evaluation factors include: on-street parking impacts, off-street parking and loading design, access location and design, vehicular, bicycle, and pedestrian circulation and safety, and existing or planned transit facilities.*

## **Findings/Conclusions**

1. **Access/Circulation:** The Applicant proposes to construct a circulation pattern that is integrated into the larger Planned Commercial development providing multiple links into and out of the site area controlled by the proposed fast food restaurant. All proposed drive aisles serving the parking areas, drive-through access, and driveway/entrances are sufficiently wide to provide for emergency vehicle access. The CVS Pharmacy located on the adjacent lot to the east maintains an easement requiring delivery truck access that runs parallel to Urbana Pike along the front of the proposed Burger King/Philly Pretzel building. This easement complicated the arrangement of vehicular circulation as well as building placement essentially forcing the location of the structure to be setback farther from Urbana Pike than Staff had initially encouraged. As a result, there is shared vehicular access surrounding the restaurant site while a U-shaped loop system is designed within this network to create some duplication of drive aisles. Furthermore, the location of the CVS Pharmacy drive-through queueing aisle is located on the western side (rear) of that structure resulting in a 3-lane internal aisle between the Burger King and CVS sites. While not ideal, Staff is willing to accept the two-way eastern drive aisle on the condition that the proposed minimum 24 ft. aisle width is maintained at the narrowest point and the 44 ft. aisle (three lanes) is maintained where indicated on the site plan.
2. **Connectivity, Section 1-19-6.220 (F):** The Site, as planned, will be well connected to the local road network as well as to the adjacent commercial development both on- and off-site. The cruciform pattern of internal vehicle aisles approved previously for the whole site will serve the proposed restaurant well providing full vehicle movements onto and off of Urbana Pike, right-in/right-out access to Fingerboard Road along the northern edge of the Planned

Commercial Development, and a frontage lane providing east-west vehicle movements in front of the store.

3. **Public Transit:** This site is not served by any current County or regional transit service.
4. **Vehicle Parking and Loading, Section 1-19-6.200 through 1-19-6.220:** Pursuant to Section 1-19-6.220 of the Zoning Ordinance, parking space requirements for the proposed land use are as follows:

*Total Required: 44 spaces (1 space per 75 sf of customer service area)*

Restaurant interior area:	3,328 s.f.
Parking Spaces Provided:	44 spaces
Loading Space:	Modification to allow use of drive-through aisle for loading outside of business hours

The Applicant is requesting a modification of Section 1-19-6.210(B) to allow for the use of the drive-through aisle as the primary off-street loading area for deliveries to the restaurant during off hours when customers are not on-site. The requirement under this section of the Zoning Ordinance would require one (1) large loading space. The drive aisle request would, in effect, result in a small loading space and would allow a paved area of the site to pull double-duty as both drive-through land and loading space. Staff supports this modification request by the Applicant.

The Applicant has calculated parking requirements using the entire footprint of the restaurant. Typically, the calculation is made using only those areas designated for 'customer service'. The Applicant must request a modification to allow 44 parking spaces noting the actual calculated parking space requirement based on the measurement of customer service areas within the restaurant.

5. **Bicycle Parking:** The Zoning Ordinance requires bicycle parking to be provided for buildings 5,000 s.f. in size or greater. Each commercial use requires the provision of one bicycle rack per 20 vehicle parking spaces. Each rack must accommodate two parked bicycles. The proposed bike racks are required to meet the standards within the Frederick County Bicycle Design Guide. The Applicant is proposing two racks (4 bike spaces) - a number that meets the County requirement - and has provided bike rack details within the plan to insure that the Design Guide will be met. Staff finds the provision for bicycle parking to be sufficient for this proposed land use.
6. **Pedestrian Circulation and Safety, Section 1-19-6.220:** Pedestrian access to and from the restaurant site is provided at several locations surrounding the building pad. Raised pedestrian crosswalks are provided on both the north and west approaches to the site area while standard crosswalks are provided on the south front and northwestern corner of the site. A marked and paved sidewalk/crosswalk is proposed at the throat of the drive-through lane insuring that pedestrians will be crossing the lane where vehicles are likely paying the greatest attention at the slowest speeds. The southern crosswalk, which crosses the 'frontage aisle', lead directly to the sidewalk along Urbana Pike serves to connect pedestrians to the primary building entrance. In the eastern section of parking serving the site, a pedestrian crosswalk leads directly to the handicap parking space area used by visitors to get into and out of their vehicles. This provides for a clear, vehicle-free swath of



pavement over which pedestrians may move between parked vehicles and the building entrance. Pedestrian access is well-designed and clearly adequate to serve the site area as well as the greater Planned Commercial development.

**Conditions:** The Applicant shall identify on the Site Plan the use of the drive-through aisle as the loading space for the restaurant.

**Public Utilities, Section 1-19-3.300.4(C):** *Where the proposed development will be served by publicly owned community water and sewer, the facilities shall be adequate to serve the proposed development.*

### **Findings/Conclusions**

1. **Public Water and Sewer Service:** The site is classified W-1/S-1, indicating existing water and sewer service to the site. Facilities are adequate to serve the proposed restaurant use proposed under this plan.

**Natural Features, Section 1-19-3.300.4(D):** *Natural features of the site have been evaluated and to the greatest extent practical maintained in a natural state and incorporated into the design of the development. Evaluation factors include topography, vegetation, sensitive resources, and natural hazards.*

### **Findings/Conclusions**

1. **Topography:** The existing site slopes gently downward from west to east with the lowest point being situated on the northeastern corner of the site area. The proposed Site Plan will maintain the general grade of the existing lot while accommodating some modest regrading to allow the building and immediate surroundings to lay flat across the center of the proposed development area.
2. **Vegetation:** No natural vegetation currently exists on the site. Older shrubs dating from the Peter Pan Inn and Cracked Claw era are to be removed as part of the pre-construction rough grading of the site.
3. **Natural Hazards:** Based on mapping provided by the Applicant, there are no sensitive environmental resources located on the site.

The proposed development of this site is currently underway and will not negatively impact natural features.

**Common Areas, Section 1-19-3.300.4(E):** *If the plan of development includes common areas and/or facilities, the Planning Commission as a condition of approval may review the ownership, use, and maintenance of such lands or property to ensure the preservation of such area, property, and facilities for their intended purposes.*

### **Findings/Conclusions**

1. **Proposed Common Area:** No common areas are required or proposed for this Site Plan.

#### Other Applicable Regulations

**Stormwater Management – Chapter 1-15.2:** Storm water management (SWM) has been designed in accordance with the 2009 Maryland Storm Water Design Manual, including all revisions and all supplements. Stormwater management plans for this site were approved under the SWM plan for the Planned Commercial Development (AP 14211).

#### APFO – Chapter 1-20:

1. **Schools** – Schools are not impacted because the proposed development is a non-residential use.
2. **Water/Sewer** – The site is to be served by public water and sewer. Adequate systems capacity is available for service of the proposed use.
3. **Roads** – This application has been approved for APFO compliance as part of AP 13641/APFO 13602 – the approved Site Development Plan for the Planned Commercial Development of the Urbana Village Center-Lot 1 site. The site is subject to the terms of an APFO Letter of Understanding (LOU) between the Applicant and the FCPC dated December 11, 2013.

**Forest Resource Ordinance (FRO) – Chapter 1-21:** FRO was approved for the entirety of the Planned Commercial Development on this site and FRO requirements were fully mitigated through AP 13457.

**Historic Preservation – Chapter 1-23:** The Subject Site is located adjacent to the historic Rine-Dixon House which is being adaptively reused as a commercial/retail structure. Development of the proposed Burger King/Philly Pretzel site will not have a negative impact on historic resources including the Rine-Dixon House and the associated family cemetery located along Fingerboard Road. The cemetery is being protected and marked with a decorative fence and marker as part of the Planned Commercial Development Site Development Plan approval under previously approved AP 13641.

#### Summary of Agency Comments

<b>Other Agency or Ordinance Requirements</b>	<b>Comment</b>
<b>Development Review Engineering (DRE):</b>	Conditionally Approved
<b>Development Review Planning:</b>	Conditionally Approved
<b>Street Name Review:</b>	Approved

<b><i>Other Agency or Ordinance Requirements</i></b>	<b><i>Comment</i></b>
<b><i>Health Dept.</i></b>	Conditionally Approved
<b><i>Office of Life Safety</i></b>	Approved
<b><i>Forest Resource Ordinance</i></b>	Approved
<b><i>DPDR Traffic Engineering</i></b>	Conditionally Approved
<b><i>Historic Preservation</i></b>	Approved
<b><i>APFO</i></b>	Approved

## **RECOMMENDATION**

Staff has no objection to Conditional Approval of the Site Development Plan subject to the conditions and modifications noted below. If the Planning Commission conditionally approves the Site Plan, the plan is valid for a period of three (3) years, or November 12, 2017.

Based upon the findings and conclusions as presented in the staff report, the application meets or will meet all applicable zoning, APFO, and FRO requirements once the following conditions are met:

1. Address all agency comments as the plan proceeds through to completion.
2. Prior to final Site Development Plan approval the Applicant shall amend the Plant Schedule on the plan to indicate that shrub specimens, planted as parking area screening, are at least 30" in height at time of planting.
3. The proposed height of all pole-mounted and building-mounted lights shall be more clearly noted on the lighting plan (Sheet 13) to insure compliance with the 18 ft. height limit as the project moves through to completion.
4. Planning Commission approval of the requested modification of the loading space requirements to allow the drive-through aisle to serve as the loading area accommodating the after-hours timing of all deliveries to the site. The Applicant shall identify the loading space on the Site Plan prior to final signature approval.
5. Planning Commission approval of the requested modification to allow additional parking spaces beyond the number required in the Zoning Ordinance.

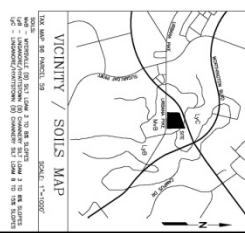
## **PLANNING COMMISSION ACTION**

### **MOTION TO APPROVE WITH CONDITIONS**

I move that the Planning Commission **APPROVE** Site plan SP-93-03 (AP #14662, FRO 14664, APFO 14663) with conditions and modifications as listed in the staff report for the proposed Burger King/Philly Pretzel restaurant, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.

**Burger King/Philly Pretzel - Urbana  
Site Development Plan**

November 12, 2014  
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**SITE PLAN  
FOR  
BURGER KING  
TAX ID: 07-190018  
3357 URBANA PIKE  
FREDERICK COUNTY, MARYLAND**

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757-484-9670 • Fax: 757-484-7498 • 901 PortCentre Parkway, Suite 5 • Portsmouth, Virginia 23704

October 22, 2014

Frederick County Planning Commission  
30 North Market Street  
Frederick, MD 21701

Re: Site Plan  
Burger King – Urbana Village Center Lot 1  
3357 Urbana Village  
Frederick County, MD  
SP93-03 Project Number: 14662  
Our File No. 3477.04

Dear Members of the Planning Commission:

We hereby request, on behalf of our client, a modification to the loading space requirements indicated in Section 1-19-6.200. of the Frederick County Zoning Ordinance. The modification request is in regards to the requirements to provide a dedicated space for these purposes. For your consideration, we offer the following:

Deliveries of goods and materials will be done outside of normal operating hours. The purpose behind this is to avoid impacting the operations of the restaurants while business is occurring. Outside of normal hours the deliveries will be made adjacent to the drive thru aisle. There is sufficient space within and adjacent to the drive aisle for delivery vehicles to serve the restaurants.

Due to site constraints associated with landscaping, site access and drive aisle widths, parking, trash refuse, and stormwater control, a dedicated space cannot be provided. As deliveries occur outside of normal business hours, the provision of this dedicated space does not provide a benefit characteristic to its inclusion within the development. For these reasons we request approval of a modification to these requirements.

If you should need any additional information or have any questions upon consideration of this request you can reach us via phone at 757-484-9670 or by email at either [chris@hoggard-eure.com](mailto:chris@hoggard-eure.com) or [cj@hoggard-eure.com](mailto:cj@hoggard-eure.com). Thank you for your consideration of this request.

Sincerely,  
HOGGARD/EURE ASSOCIATES, P.C.

Christopher Stubbs, E.I.T.  
Project Engineer

cc: HE File 3477.04